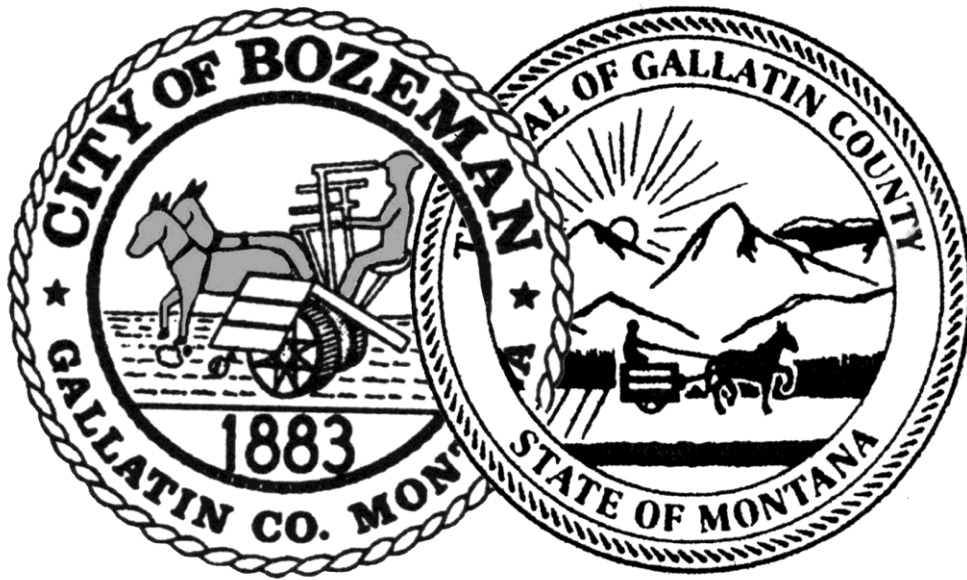


Gallatin City-County Health Code

Chapter 2



Local Food Service Establishment Rules

**Gallatin City-County Health Department
Originally Adopted March 25, 2000
Revision Effective May 23, 2009**

CHAPTER 2 – LOCAL FOOD SERVICE ESTABLISHMENT RULES

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2-01. PURPOSE

These Local Food Service Establishment Rules make existing laws more accessible and understandable and provide local procedures that comply with State law. Their purpose is to prevent and eliminate conditions and practices that endanger public health in Gallatin County. The Rules are adopted to help educate both the public and Food Service Establishments about public health laws and to help facilitate compliance with those laws.

2-02. AUTHORITY

A. Controlling Communicable Diseases

The Gallatin City-County Board of Health (Board) may adopt rules to control Communicable Diseases, if as stringent as, and not in conflict with Rules adopted by the Montana Department of Public Health and Human Services (DPHHS) in ARM Title 37, Chapter 110 (which adopts some of the Code of Federal Regulations by reference, see Appendix 2-A for a list). MCA 50-2-116(2) and ARM.37.114.102

The Board finds that the Critical Violations noted in the Food Service Establishment Inspection Report pertain to the control and prevention of Communicable Diseases and that it is appropriate to adopt rules regarding the control and prevention of Communicable Diseases in Food Service Establishments. These rules include, but are not limited to, closing establishments creating an imminent danger or with multiple risk factors or Critical Violations.

If conflicts or inconsistencies exist between referenced and other sources, GCCHD will determine the appropriate requirement, interpretation or administrative procedure that is consistent with the requirements and intent of sound public health and food safety practices. GCCHD may establish policies and/or procedures to address new technology or industry trends that pertain to the safety and handling of food or food products.

B. Temporary Food Service Establishments

The Board may impose additional requirements to protect against health hazards related to Temporary or Mobile Food Service Establishments. It may prohibit the sale of some or all Potentially Hazardous Foods, and when no health hazard will result, may waive or modify DPHHS Rules for Temporary or Mobile Food Service Establishments. ARM 37.110.236, 37.110.256

C. Fees

The Board has the ability to set fees for services provided by the GCCHD. Local Food Service Establishments and the public will be charged according to the fee schedule adopted by the Board.

Fees and fines are subject to change following review and adoption by the Board at any public meeting which public notification has been given.

2-03. DEFINITIONS FOR FOOD SERVICE ESTABLISHMENT RULES

The following terms are defined in this Code Chapter 1, Subparagraph 1-03: **ARM, Board, Day, DEQ, DPHHS, GCCHD, Health Code, Health Officer, MCA, Posted, and Published.** For additional definitions refer to ARM 37.110.203 (the “Green Book”) and MCA 50-50-102.

Unless the context requires otherwise, the following definitions apply for this Chapter:

- A. "Communicable Disease"** means an illness due to or suspected to be due to a specific infectious agent or its toxic products, that results from transmission of that agent or its products to a susceptible host, directly or indirectly, ARM 37.114.101(5). Appendix 1-B of Chapter 1 of the Health Code is a list of Communicable Diseases that are required to be reported.
- B. “Event Coordinator”** means the person(s) in charge of organizing or coordinating a special or temporary event.
- C. "GCCHD Inspector"** means the Gallatin City-County Health Officer, Registered Sanitarian or Sanitarian in Training.
- D. "High Risk Critical Violations"** means violations of the following type [Note: reference citations are from ARM Title 37, Chapter 110, Subchapter 2]:
 - Time-temperature: Perishable and Potentially Hazardous Food’s (PHF's) held at safe temperatures [203(61) and 207(10)], raw animal foods cooked to required temperatures [207(4) and 207(5)], PHF’s cooled as required [207(7)], PHF’s reheated for hot holding as required [207(8)], proper destruction of parasites by freezing [207(9)] and proper thawing procedures [207(11)]

- Personal hygiene: Ill food employees restricted [210(1)], food employees wash hands when required [210(4)], food employees prevent contamination of food by minimizing bare hand contact etc. [210(6)]

- E. “Personal Chef”** means a person(s) employed solely for the purpose of preparing food or meals in a personal residence. All foods must be prepared on location.
- F. “Private Event”** means groups that only prepare and serve food to their own members, and guests with a demonstrated pre-existing relationship. These events and “potluck” events are exempt from licensing and not regulated when closed to the general public. An example of such an event includes, but is not limited to, a religious activity involving only congregation members. Exemptions are at the discretion of GCCHD and must be applied for by notifying department prior to event.
- G. “Public Event”** means an event that is open and/or advertised to the public. “Public Events” are subject to licensing and must follow all rules and regulations of ARM 37.110.203, MCA 50-50-102 and GCCHD Health Code Chapter 2.
- H. “Sensitive Occupation”** means employment in direct care of children, the elderly, or individuals who are otherwise at a high risk for disease or where disease spread could occur due to the nature of the work.” ARM 37.114.101(30)

2-04. GENERAL REQUIREMENTS AND STATE LICENSING

A. State Statutes and Administrative Rules

All Food Service Establishments in Gallatin County, whether licensed or not, shall comply with the applicable State Statutes and Administrative Rules of Montana, and these Local Food Service Establishment Rules.

All Food Service Establishments in Gallatin County shall have a current copy of the DPHHS publication “Retail Food Establishment Standards, Administrative Rules of Montana, Title 37, Chapter 110, Subchapter 2” on the premises at all times for easy reference.

All Food Service Establishments in Gallatin County shall have a current copy of Chapter 2 of the Gallatin City-County Health Code on the premises at all times for easy reference.

B. State Food Service Establishment Licenses (License)

It is unlawful for a person or business to operate a Food Service Establishment in Gallatin County without an annual License except as provided in 2-05 below. The License must be validated by the Health Officer or as otherwise required by MCA 50-50-214.

A License is not transferable from one person to another or from one premises to another. MCA 50-50-206. A Food Service Establishment that has been sold, transferred or conveyed must have a new License before it reopens.

If a Food Service Establishment is sold or closed, the person or business whose name is on the License shall notify the GCCHD at least three (3) days before the sale or closure, unless there are extenuating circumstances as determined by the Health Officer.

C. Temporary Food Service Establishments

Temporary Food Service Establishments must register with GCCHD and be operated in accordance to ARM 37.110.236.

If deemed necessary by GCCHD, specific requirements or conditions may be necessary for Temporary Food Service Establishments and may be unique to an event or operator. Failure to comply with the requirements or conditions is a violation of these Rules and may result in the invalidation of the registration.

D. GCCHD Phone Number Displayed

The GCCHD phone number, (406) 582-3120, must be prominently displayed near a phone in the food preparation area or the closest phone, if there is no phone in the preparation area.

E. State License Cancellation

DPHHS may cancel a License if it finds, after proper investigation, that the Licensee has violated MCA Title 50, Chapter 50 or an Administrative Rule adopted thereunder by DPHHS and the Licensee has failed or refused to correct the violation. MCA 50-50-20.

F. State License Revocation

DPHHS may, after giving an opportunity for a hearing, revoke a License for serious or repeated violations of ARM Title 37, Chapter 110 or for interference, of DPHHS personnel or GCCHD Inspector(s) performing their duties. ARM 37.110.238(5)

G. Health Officer Refusal to Validate the State License

The Health Officer may refuse to validate the License for serious or repeated violations of State or Local regulations. The Health Officer may refuse to validate the License for interference, intimidation or harassment of GCCHD Inspector(s) or personnel. If the Health Officer does not validate the License, the applicant may appeal the decision to the Board. MCA 50-50-214 and 215

H. A State License Does Not Replace Other Requirements

A License does not replace the requirements for other applicable permits, licenses, or approvals by the State of Montana or its political subdivisions.

2-05. EXEMPTIONS FROM STATE LICENSING

A. The State and Its Political Subdivisions

Effective January 1, 2004, Food Service Establishments owned or operated by the State of Montana or a political subdivision of the State that employ a full-time sanitarian are exempt from licensing, but they must comply with MCA Title 50, Chapter 50 and the Administrative Rules adopted thereunder. MCA 50-50-202

B. Nonprofit Organizations

Food Service Establishments operated by Nonprofit Organizations for a period of less than fourteen (14) days in a calendar year are exempt from applicable fees, but must comply with the following:

1. Comply with the other provisions of MCA Title 50, Chapter 50 and Administrative Rules adopted thereunder, MCA 50-50-202(2)(a);
2. Complete a temporary event application before each operation, MCA 50-50-202(2)(b). An Event Coordinator must be specified. Specific requirements or conditions may be imposed and may be unique to an event or Nonprofit Organization. ARM 37-110-236(1)

C. Nonprofit Organizations Specific to Bake Sale Operations

Nonprofit Organizations specific to bake sale operations must:

1. Comply with the other provisions of MCA Title 50, Chapter 50 and Administrative Rules adopted thereunder, MCA 50-50-202(2)(a);
2. Complete an event application prior to event, MCA 50-50-202(2)(b). An Event Coordinator must be specified. Specific requirements or conditions may be imposed and may be unique to an event or Nonprofit Organization, ARM 37-110-236(1);
3. Maintain a list of home bakers and the food they donate to the event;
4. Prohibit participation of persons with any Communicable Disease transmissible by food;
5. Distribute handouts provided by the Health Department to all home bakers before food preparation and to all on-site food handlers before they sell goods;

6. Prohibit direct hand-to-food contact with ready-to-eat foods,;
7. Limit the type of food sold or offered to candies, cookies, cakes, cupcakes, bread, fruit pies, popcorn, preserves, coffee, tea, commercially prepared juices and soft drinks;
8. Post a placard in view of the public that explains the fact that products sold are not processed in an inspected, licensed facility; or language in similar terms;
9. Nonprofit Organizations that prepare potentially hazardous foods at public events must comply with temporary event guidelines but are exempt from license fees.

D. Farmer's Markets

"Farmer's Market" means a farm, a roadside stand owned and operated by a farmer, or an organized market authorized by the appropriate municipal or county authority. MCA 50-50-102(5)

1. **Gardeners and Farmers** A gardener, farm owner, or farm operator who sells raw and unprocessed farm products at a Farmer's Market is exempt from obtaining a License. MCA 50-50-202(3)(a)
2. **Persons selling Baked Goods or Preserves** A person selling baked goods or preserves at a Farmer's Market is exempt from obtaining a License. MCA 50-50-202(3)(b) Persons selling baked goods or preserves as defined under MCA 50-50-202(3)(b) must complete an application and have goods approved by GCCHD. Application expires after specific market ends each year.
3. **Registration Records** A Farmer's Market authorized by a municipal or county authority shall keep Registration Records of all individuals and organizations that sell items, baked goods or preserves at the market for one (1) year. MCA 50-50-202(4)(a)

Registration Records must include the seller's name, address, phone number, the kinds of products or items sold, and the dates sold. Registration Records must be made available for GCCHD inspection. MCA 50-50-202(4)(b) and (c)

E. Private Events

As defined in 2-03F, a Private Event is exempt from licensing and applicable fees.

F. Personal Chef

As defined in 2-03E, a Personal Chef is exempt from licensing and fees related to ARM 37.110.238.

2-06. HEALTH REQUIREMENTS

A. No Food Employee to Have a Communicable Disease Likely to be Transmissible by Food

No infectious person may engage in any occupation involving the preparation, serving, or handling of food, and/or beverages, to be consumed by others than his/her immediate family, until the local Health Officer determines him/her to be free of the infectious agent or unlikely to transmit the infectious agent due to the nature of his/her particular work. ARM 37.114.301(2)

It is a misdemeanor for a food employee to work in a Food Service Establishment with a Communicable Disease that is likely to be transmissible by food, drink, air or physical contact, MCA 50-50-105 and 108.

A food employee must immediately report to the Person-in-Charge if they are infected with a Reportable Communicable Disease cited in this Section. The Person-in-Charge must notify GCCHD, at (406) 582-3120, when it is known or suspected that a food employee is infected with a Reportable Communicable Disease. The Confidentiality restrictions of MCA 50-16-603 for Health Care Information apply to this report.

B. Responsibility of the Person-in-Charge to Require Reporting of all Employees and Applicants

Food employees must report to the Person-in-Charge if they have or are exposed to diseases that are transmissible by food (see Sections 1 & 2 below). The Person-in-Charge shall obtain written confirmation from the food employee that they understand and will comply with this reporting requirement. This written confirmation must be kept on site for review by the GCCHD.

The Person-in-Charge shall report to GCCHD if any food employee:

1. Is diagnosed or has been diagnosed within the last four (4) weeks with an illness due to the following:
 - a. *Salmonella spp.*,
 - b. *Shigella spp.*,
 - c. Pathogenic *Escherichia coli*,
 - d. *Campylobacter spp.*,
 - e. *Cryptosporidium parvum*, or
 - f. *Giardia lamblia*.
2. Is diagnosed with Hepatitis A regardless of symptoms.

The Person-in-Charge shall ensure that a food employee shall not prepare or handle food if that employee:

3. Has symptoms caused by illness, infection, or other source that are:

a. Associated with an acute gastrointestinal illness such as:

- (i) Diarrhea,
- (ii) Fever
- (iii) Vomiting

4. Has symptoms of Jaundice.

5. Has respiratory symptoms causing:

- a. Sneezing or cough,
- b. Discharge from the eyes, nose, or mouth,
- c. Sore throat with fever;

6. Has a lesion containing pus such as a boil or infected wound that is open or draining and is:

- a. On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover,
- b. On exposed portions of the arms, unless the lesion is protected by an impermeable cover, or
- c. On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage.

C. The Imposition and Removal of Job Exclusions or Restrictions

The Health Officer may exclude a food employee from a Food Service Establishment or may impose appropriate work or job restrictions. The Health Officer shall release a food employee from a job exclusion or restriction.

The Health Officer shall make these determinations based upon the appropriate Administrative Rules and Regulations of Montana and the recommendations cited in the most current edition of the “Controls of Communicable Disease Manual, An Official Report of the American Public Health Association”.

If the Health Officer has reasonable cause to suspect possible disease transmission by a food employee the Health Officer may secure a recent disease or illness history of the person or make any other investigations as indicated and take appropriate actions. The Health Officer may require the immediate exclusion of the person from Food Service Establishments; restrict the person’s service to some area of the Food Service Establishment where there would be no danger of transmitting disease; require adequate medical and laboratory examination of the person and of other employees.

2-07. FOOD HANDLING PRACTICES AND RESTRICTIONS

Thorough and frequent hand washing is the cornerstone for a safe food handling program. Since “ready to eat foods” are directly consumed by the public, it is imperative that ready to eat food be free from contamination. To achieve this, ready to eat food shall be prepared or assembled with clean washed hands. A properly used barrier between hands and ready to eat food provides an extra level of protection.

A. Hand Washing Plan

All food establishments must comply with an approved Hand Washing Plan that will require that food employees:

1. As addressed in 2-07(c), must follow no or limited bare hand contact.
2. Are provided with a hand-sink with soap, fingernail brushes, and paper towels in a dispenser or a warm-air hand dryer, all in the food preparation and dishwashing areas.
3. Thoroughly wash their hands and the exposed portions of their arms with soap and warm water and dry them before starting food preparation [See Section 2-07 (B & C)], and also after:
 - a. Touching any soiled object, soiled surface, soiled material, or soiled clothing;
 - b. Handling dirty dishes or equipment;
 - c. Touching or scratching any body part (ears, mouth, nose, hair, face or other parts);
 - d. Coughing, sneezing or using a handkerchief or facial tissue;
 - e. Using the restroom;
 - f. Handling raw food - particularly meat and poultry;
 - g. Cleaning, removing garbage, or storing supplies;
 - h. Smoking, eating, or drinking;
 - i. Returning to the kitchen from another area;
 - j. After engaging in other activities that contaminate the hands.
4. Do not wipe their soiled hands on clothing or aprons;
5. Keep their fingernails trimmed and clean, and hands and wrists free of loose jewelry;
6. Have clean clothing and use hair restraints.

Food employees must be trained and monitored for compliance with the posted Hand Washing Plan by the Person-in-Charge.

B. Hand Washing Procedure

Food employees shall keep their hands and exposed portions of their arms clean.

1. Food employees shall clean their hands and exposed portions of their arms with a cleaning compound in a handwashing lavatory that is equipped as specified under ARM 37.110.221 by vigorously rubbing together the surfaces of their lathered hands and arms for at least 20 seconds and thoroughly rinsing with clean water. Food employees shall pay particular attention to the areas underneath the fingernails and between the fingers.
2. If approved by GCCHD and capable of removing the types of soils encountered in the food operations involved, an automatic hand washing facility may be used by food employees to clean their hands.

C. Food Handling Practices

Food employees must practice “no or limited direct hand contact” when handling ready to eat or service ready foods. The proper use of barriers such as utensils, waxed tissues, spatulas, tongs, or single-use gloves is required at all times when handling food. Limited hand contact may be allowed if using a barrier presents a safety risk to employee or consumer.

If used, single-use gloves shall be used for only one task and for no other purpose. Gloves must be discarded when damaged, soiled, or when interruptions occur in the operation. In addition, hands must be properly washed to ensure the gloves are not contaminated when putting them on.

2-08. INSPECTIONS, REPORTS, AND CORRECTIONS

A. State and Local Inspections

DPHHS contracts with and pays the Board to perform inspections for state health laws. MCA 50-50-104 and 305. Therefore, GCCHD inspections include criteria for both state laws and local rules.

GCCHD shall investigate and inspect Food Service Establishments in Gallatin County as often as necessary to enforce local rules and ARM Title 37, Chapter 110, Subchapter 2, Food Service Establishments. ARM 37.110.239(1)

Inspection results may be appealed to the Director. If the issue remains unresolved, the Health Officer may hear the appeal.

B. Access to Food Establishments and Records

GCCHD Inspectors, after showing proper identification, must be permitted to enter any Food Service Establishment whether licensed or not at reasonable times to inspect for compliance with public health laws. GCCHD must be permitted to examine records for information about

food and supplies purchased, received, or used, and about employees. ARM 37.110.239(2) and MCA 50-50-302

C. Inspection Reports

Inspection data and comments must be recorded in an easily readable form, which summarizes the requirements of the Administrative Rules for Food Service Establishments. ARM 37.110.239(3)

Inspection report remarks shall state the requirement(s) violated and the correction(s) to be made. A copy of the completed inspection report must be given to the person-in-charge at the end of the inspection. If the person-in-charge refuses to accept the Inspection Report, a copy will be left on the premises and this fact will be noted in the report remarks.

D. Completed Inspection Reports are Public Documents

Completed inspection reports are public documents and are available for public review and copying at cost.

E. Corrections to Violations

Failure to make corrections within the time limits noted on the inspection report is a violation of these Rules and may result in the Establishment being closed. The following are the general time limits for correcting violations:

1. High Risk Critical Violations must be corrected at the time of the inspection. Failure to immediately correct the High Risk Critical Violation(s) or to submit and implement an acceptable Plan of Correction may result in the immediate closure of the Establishment.
2. Critical Violations must be corrected as soon as possible, but no more than ten (10) calendar days from the inspection date, unless an imminent health hazard is present. The conditions or violations causing an imminent health hazard must be immediately corrected or the Establishment shall be closed. An acceptable Plan of Correction may be required to prevent imminent health hazards from occurring in the future.
3. A Food Service Establishment with four (4) or more Critical Violations in a single inspection, without an imminent health hazard, must initiate corrective action on identified violations as soon as possible. Unless the establishment corrects the noted Critical Violations or submits an acceptable Plan of Correction for the Critical Violations within forty-eight (48) hours, it may be closed.

4. Non-Critical Violations must be corrected as soon as possible, but in any event, by the time of the next routine inspection.
5. A Temporary Food Service Establishment must correct all violations before resuming operations.

F. Special Inspection Fees

GCCHD may charge a Special Inspection fee for non-routine inspections (see fee schedule).

GCCHD shall charge a Special Inspection fee (see fee schedule) for any follow-up inspections defined as third or subsequent inspection for Critical Violations not corrected by the end of a second inspection. MCA 50-50-205

Failure to pay the Special Inspection fee within thirty (30) days of the inspection is a violation of these Rules. The Health Officer may refuse to validate a License for violations of these Rules. Other actions as established by the Health Officer may also be applied.

G. General Provisions

1. Conditions or situations not explicitly covered by applicable state or local regulations may be addressed on a case-by-case basis by a GCCHD Inspector.
2. Establishments must have appropriate equipment and/or procedures to properly collect and dispose of fats, oils and greases.
3. Existing facilities may be required to provide written documentation to ensure that water and wastewater systems are functioning and maintained properly. GCCHD may require system improvements if found to be out of compliance with State or local guidelines.

2.09. CLOSING AND REOPENING FOOD SERVICE ESTABLISHMENTS

A. Notice of Closure

1. The Notice of Closure is effective upon delivery and customers must not be served thereafter.
2. The Health Officer or designee shall post a Notice of Closure at each entrance of the Establishment.
3. No person shall remove, cover or alter a Notice of Closure, except by direction of the Health Officer or designee.

4. No person shall operate a Food Service Establishment that has a Notice of Closure.

B. High Risk Critical Violations and Critical Violations Causing an Imminent Health Hazard

If a High Risk Critical Violation(s) or a Critical Violation(s) creates an imminent danger to public health and are not corrected immediately or an approved alternative procedure is not initiated immediately by the Person-in-Charge, then the GCCHD Inspector may request that the Health Officer or designee order the Food Service Establishment be closed.

An imminent health hazard may exist because of an emergency. Examples include but are not limited to; a fire, flood, extended interruption of electrical or water service, water contamination, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross unsanitary occurrence or condition, or other circumstance that may endanger public health.

C. Failure to Correct Critical Violations or Provide an Adequate Plan of Correction on a Follow-up Inspection

If a Food Service Establishment fails to correct a Critical Violation(s) or provide an adequate Plan of Correction on a follow-up inspection, then the Health Officer or designee may order the Food Service Establishment closed.

D. Reopening Closed Establishment

A Food Service Establishment may be reopened, if the Health Officer or designee finds that:

1. The Person-in-Charge has submitted an acceptable written Plan of Correction to GCCHD, specifying the corrections to be made and the time limits for their completion;
2. The Plan of Correction is approved by GCCHD;
3. A follow-up inspection shows no additional Critical Violations not already covered by the Plan of Correction;
4. A Special Inspection fee is paid to GCCHD for a third and each subsequent inspection;

If the above conditions are met, the Establishment may be reopened and the Notice of Closure signs removed by the Health Officer or designee.

2-10. EDUCATION

It is highly recommended that all food employees receive food safety training. Training should be repeated every three (3) years from the date of training, at a minimum.

A. Voluntary Education

1. Food service employees receiving four (4) hours of food safety training sponsored by GCCHD shall receive a certification card.
2. The safe food handler certification shall expire three (3) years from the date of training.

B. Mandatory Education

1. A licensed establishment must have a minimum of one (1) person on duty at all times of operation who has completed a managers food safety training program. A nationally recognized program with a minimum eight (8) hours of classroom training and approved by GCCHD will qualify.
2. Establishments that possess a (F) (Food Small) category license are found to be low risk and therefore exempt from this training requirement. GCCHD may require a facility to adhere to subsection (4) of this chapter.
3. All facilities must comply within one year from this effective date. Failure to comply will result in a Critical Violation as referenced in 2-09(B) and could be subject to closure.
4. GCCHD may require that all employees within an establishment complete a minimum of four (4) hours food safety training in the following cases:
 - a. Whenever a Food Service Establishment has been closed in accordance with Section 2-09 of these regulations;
 - b. Whenever a Food Service Establishment shows a history of noncompliance with State and local food service regulations as determined by consistent marking of High Risk Critical Violations on past inspections or as otherwise determined by the Health Officer or designee.
5. Failure to complete the mandatory food safety training within the required time frame is a violation of these codes.

The person-in-charge is responsible for maintaining compliance records for inspection by GCCHD.

The Health Officer may refuse to validate the State License for a violation of this Section. Other actions as established by the Health Officer may also be applied.

Certification must be kept current and follow guidelines per certifying organization as to renewal and expiration.

C. Fees

Food safety training is a control measure for the spread of Communicable Disease and is a service provided by GCCHD. A fee for time and materials shall be charged for a food safety training program conducted by GCCHD. See fee schedule.

2-11. PLAN REVIEWS

The purpose of a plan review is to provide an opportunity to review plans in order to assist with compliance with state and local Food Service Establishment regulations prior to construction or remodeling. Plans may be submitted to Montana Department of Public Health and Human Services Food and Consumer Safety Section, PO Box 202951, Helena, Montana 59620. GCCHD offers plan review service with an expedited thirty (30) day maximum review time. See Fee Schedule for applicable plan review fees that apply to this service.

A. Plan Review Packets

If an applicant elects to use the GCCHD in order to complete a plan review, a Plan Review Packet shall be submitted to and approved by GCCHD when:

1. Constructing a new Food Service, Food Producing, Catering, Food Salvaging or Food Re-packaging Establishment;
2. Converting an existing structure to a Food Service, Food Producing, Catering, Food Salvaging or Food Re-packaging Establishment; or
3. Remodeling and renovating an existing Food Service, Food Producing, Catering or Food Re-packaging Establishment that changes the lighting, water, wastewater, cooking, or washing facilities. A plan review may not be required for minor changes of the facility or upgrading of equipment but it is the responsibility of the establishment to contact the Department and receive in writing a determination of requirements. Plan reviews will be required for the installation of any major piece of food service equipment including but not limited to large refrigeration units, cooking and dishwashing equipment and/or altering the structural configuration of the facility housing the Food Service Establishment such as the removal or the addition of walls or a change in the designated use of an area within the facility.

The Plan Review Packet shall include the proposed arrangement, mechanical plans, construction materials, types and models of fixed equipment, and the planned menu. ARM 37.110.241. The project must also be approved by the other state and local officials having jurisdiction. GCCHD plan review approval may be withheld until the other approvals are obtained.

B. Review of Applications

1. EHS shall review all applications on a “first come/first serve” basis.
2. EHS will attempt to expedite the review of all applications but reserves the right to a review period of thirty (30) calendar days from the date an application is received.
3. Review of an application will result in one of the following:
 - a. An issued approval to construct; or
 - b. A written request for additional information.

If upon review the application is found to be incomplete or additional information is required, EHS will provide in writing an outline of additional information required. The property owner/authorized agent will have thirty (30) days from the date of the letter to respond.

- i. One thirty (30) day extension of the original response period may be granted, at EHS’s discretion, if a written extension request is submitted before the initial thirty (30) day period has passed. The written request must state the reason(s) the time extension is needed.
 - ii. Should EHS need to write a second request for additional information related to the same project, the property owner/authorized agent will have fifteen (15) days to respond. If the required information is not received, EHS may deny the application.
 - c. A denial of the application will include written reason(s) for the denial.
4. If upon review the application is found to be incomplete or additional information is required, the thirty (30) day review period will recommence from the date EHS receives the required information.
5. Construction of approved plans for Food Service Establishments must commence within 24 months of approval. If construction has not begun after 24 months, the approval is void. Fees from plan review service are non-refundable and cannot be applied to new or resubmitted plans.
6. If a facility covered under these regulations renovates, remodels or changes ownership, the structure and equipment must meet current requirements of ARM 37.110, Subchapter 2 and this Code.
7. The facility must have adequate equipment and/or procedures to properly collect and dispose of fats, oils and grease. Grease separation must follow local and municipal ordinances. A

grease separation unit must meet minimum standards as addressed in the Uniform Plumbing Code. GCCHD must approve the location, size, and type of grease separation unit.

8. New construction and remodeling of facilities that are not currently in operation serving food must be connected to a MDEQ approved public water system and MDEQ approved wastewater treatment system..

C. Pre-Opening Inspections

If an applicant elects to use the GCCHD in order to complete a plan review the GCCHD shall inspect and must approve every new, converted, renovated or remodeled Food Service, Food Producing, Catering or Food Re-packaging Establishment before operations begin, to determine compliance with the Plan Review and public health laws. ARM 37.110.241.

The Health Officer, Director or designee may issue a written authorization to open a low risk establishment on a temporary basis if extenuating circumstances exist.

D. Fees

If an applicant elects to use the GCCHD in order to complete a plan review, Plan Review Fees must be submitted with the Plan Review Packet. See fee schedule. The plan review fee includes one (1) initial pre-opening inspection. Additional inspections may be required or requested and special inspection fees will apply.

2-12. ENFORCEMENT AND PENALTIES.

A. Violations of State Criminal Laws

A person who violates a provision of MCA Title 50, Chapter 50 or an Administrative Rule adopted thereunder, or Gallatin City-County Health Codes, is guilty of a misdemeanor and on conviction shall be fined not less than \$10 or more than \$500, imprisoned for not more than 90 days, or both. When DPHHS furnishes evidence, the county attorney shall prosecute any person, firm, or corporation for a violation. MCA 50-50-107

B. Civil Penalties

An Establishment that violates MCA Title 50, Chapter 50 or an Administrative Rule adopted thereunder by DPHHS is subject to a civil penalty not to exceed \$500. Civil actions to impose penalties, do not bar injunctions to enforce compliance with MCA Title 50, Chapter 50 or a Rule adopted thereunder by DPHHS. MCA 50-50-109

C. Costs and Expenses

In a civil action initiated under MCA Title 50, Chapter 50, or Gallatin City-County Health Codes, the court may Order an Establishment that is found in violation of MCA Title 50,

Chapter 50 or Rules adopted thereunder, or Gallatin City-County Health Codes, to pay the costs of investigation and any other expenses incurred in enforcement in the case of a willful violation. The costs are limited to the direct costs of the investigation and other expenses.
MCA 50-50-110

**HEALTH CODE
CHAPTER 2
ADOPTED BY BOARD OF HEALTH
7/28/2005
FEE SCHEDULE**

Base Rate for Services	\$60.00 per hour
Education Course (4 hour)	\$20.00 per individual

PLAN REVIEW

Individual Establishment

Up to 750 sq. ft or Mobile Unit	\$200.00
751 sq. ft to 2,500 sq. ft.	\$400.00
> 2,500 sq. ft.	\$600.00

Multi-Department Establishment

Base Fee	\$600.00
Up to 750 sq. ft or Mobile Unit.....	\$200.00
751 sq. ft to 2,500 sq. ft.	\$400.00
> 2,500 sq. ft.	\$600.00

Caterer \$200.00

Food Producer..... \$400.00

Small Food Producer..... \$200.00
(e.g. baker, candies, jellies, jams)

Re-Packaging Establishment..... \$200.00
(e.g. teas, spices)

Resubmittal Fee \$100.00

Site Visit \$120.00 + base rate for
based on 2 hour visit each additional hour

Special Inspection \$120.00+ base rate for
based on 2 hour visit each additional hour
(e.g. ownership or endorsement change,
use of licensed kitchen)